

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

Damon Smith,	:	
	:	
Plaintiff,	:	
	:	
v.	:	CIVIL ACTION NO.
	:	1:08-cv-01042-JOF-RGV
James Pefanis, et al.,	:	
	:	
Defendants.	:	
	:	

OPINION & ORDER

This matter is before the court on Plaintiff's motion for sanctions against Defendants and LendX for further fraud on the court [175].

On December 16, 2009, Plaintiff filed a motion for sanctions against Defendants and LendX for further fraud on the court related to alleged witness tampering of two individuals from Thinline IT, a computer company hired by Defendants to work on website issues. As sanctions, Plaintiff asked the court to (1) enter default judgment against Defendants in the instant case, (2) order LendX to produce financial records, (3) add LendX as a party and judgment debtor to the judgment in the related *Forsberg* case, and (4) reconsider its current position to hold off criminal referrals of the wrongdoers in these cases until after the cases are over.

As events continue to overtake motions in this case, the court has ordered the production of LendX financial records in conjunction with the Eckland contempt proceedings. The court also added LendX as a judgment debtor in an order dated December 23, 2009. Although the Thinline matter was discussed before the court on affidavit and in numerous hearings, the two individuals at issue were never called to testify before the court and the court is not going to grant default judgment in this case based only on the evidence in the record before the court at this time. Finally, the court and the parties on previous occasions have had the opportunity to discuss the interest of the United States Attorney's Office in this case. For these reasons, the court DENIES AS MOOT Plaintiff's motion for sanctions against Defendants and LendX for further fraud on the court [175].

IT IS SO ORDERED this 14th day of June 2010.

/s/ J. Owen Forrester
J. OWEN FORRESTER
SENIOR UNITED STATES DISTRICT JUDGE